

Remarks

Claims 1 – 8 are pending in the application with claim 1 being independent.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Starling et al. (U.S. 4,839,215, hereinafter Starling).

Claims 1-8 are rejected under 35 U.S.C. 112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, because a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously

depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Rejection Under 35 U.S.C. 102(b)

Claims 1 – 8

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Starling. The rejection is traversed.

According to MPEP §2131.03 (III) “Anticipation under §102 can be found only when the reference discloses exactly what is claimed and that where there are differences between the reference disclosure and the claim, the rejection must be based on §103 which takes differences into account. Furthermore, in order to anticipate the claims, the claimed subject matter must be disclosed in the reference with “sufficient specificity to constitute an anticipation under the statute.” See MPEP §2131.03 (II).

Specifically, Starling et al. is directed to biocompatible particles and an article incorporating a plurality of such particles. Starling et al. is also directed to miniature interconnectable biocompatible particles, their use as dental or bone implants, prosthesis or as in vivo or in vitro growth substrates in biotechnical applications, and further teaches biocompatible particles in strung, woven, spun, rope, crocheted, braided, nonwoven, web or knitted form.

The Examiner has indicated that the paragraph bridging column 15 and 16, and, also, column 18 (Example 5), teaches growth of cells on and into the aperture of the particles. However, the particles were used as tissue culture substrates using fibroblasts and chondrocytes, and by the end of second week, particles were covered completely with cells as shown in Example 5.

In contrast to Starling et al., the cell picking tool of the present invention is not used as tissue culture substrates, but is used as cell picking tool capable of picking a cell sheet, which has been two-dimensionally cultured in a culture container.

Moreover, Starling et al. fail to teach the claimed cell picking tool, molded body/cell complex, and cell handling method.

Accordingly, Starling does not teach or suggest exactly what is claimed Applicants' claim 1, and as such, independent claim 1 is allowable under 35 U.S.C. 102(b) over Starling. Furthermore, because all of the dependent claims depending from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim also is allowable under 35 U.S.C. 102(b) over Starling. Therefore, the rejection should be withdrawn.

Rejection Under 35 U.S.C. 112

Claims 1-8 are rejected under 35 U.S.C. 112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 is canceled. Claims 1-4 and 6-8 are amended to cure the noted informalities. Therefore, the rejection should be withdrawn.

Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 842-8110 X120 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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Eamon J. Wall
Registration No. 39,414
Attorney for Applicant(s)

WALL & TONG, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-842-8110
Facsimile: 732-842-8388